

## **BOARD OF FORESTRY AND FIRE PROTECTION**

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### **MINUTES BOARD OF FORESTRY AND FIRE PROTECTION FULL BOARD OF FORESTRY MEETING**

**Sacramento, CA**

**November 8, 2006**

#### **BOARD OF FORESTRY MEMBERS PRESENT:**

Stan Dixon, Chairman  
David Nawi  
Pam Giacomini  
Jim Ostrowski  
Bruce Saito  
Mark Bosetti  
Gary Ryneerson

#### **BOARD OF FORESTRY MEMBERS ABSENT:**

Kirk Marckwald, Vice Chair

#### **BOARD STAFF:**

George Gentry, Executive Officer  
Eric Huff, Executive Officer, Forester's Licensing  
Chris Zimny, Regulations Coordinator  
Carol Horn, Executive Assistant

#### **DEPARTMENTAL STAFF:**

Ruben Grijalva, Director  
Bill Snyder, Deputy Director for Resource Management  
Bill Stewart, Assistant Deputy Director  
Dennis Hall, Staff Chief, Forest Practice

#### **CALL TO ORDER**

Chairman Dixon called the November 8, 2006 meeting of the Board of Forestry and Fire Protection to order.

#### **ADJOURN TO EXECUTIVE SESSION**

No executive session was held.

## **APPROVAL OF MINUTES**

Chairman Dixon asked for Board approval of the August and September minutes.

**11-08-05: Member Giacomini made a motion to approve the August and September minutes. Member Rynearson seconded the motion. Member Nawi abstained from voting. All other members were in favor of the motion**

## **REPORT OF THE CHAIRMAN**

Chairman Dixon spoke about the five U. S. Forest Service personnel who lost their lives as they battled the Esperanza Fire in Riverside County. The deceased were: Engine Captain Mark Loutzenhiser, age 44; Fire Engine Operator Jess McLean, age 27; Asst. Fire Engine Operator Jason McKay, age 27; Firefighter Daniel Hoover-Najera, age 20; and Firefighter Pablo Cerda, age 23. Chairman Dixon introduced Mr. Ed Hollingshead, Chief of USFS Region 5 Fire. Mr. Ed Hollingshead spoke briefly on the five firefighters the USFS lost during the Esperanza Fire. Mr. Hollingshead distributed a handout on the Esperanza Fire

## **REPORT OF THE DIRECTOR**

Chief Ruben Grijalva gave an update on his 100-day plan. Chief Grijalva said the base budget deficit had been addressed, and CDF was addressing the inversion issue. CDF is in the process of aggressively replacing their aging equipment and helicopter fleet. Chief Grijalva said CDF's relationship with the Forest Service had never been better. CDF is back to two regions and 21 units. Eleven of the 21 unit chiefs are new to their positions. Chief Grijalva developed a two-year work plan, which is on the CDF website.

Member Bosetti asked Director Grijalva for new organization charts. Director Grijalva said he would give new org charts to the Board.

## **REPORT OF THE CALIFORNIA OAK MORTALITY TASK FORCE (COMTF)**

Mr. Mark Stanley, representing the Oak Mortality Task Force (COMTF), said the update of COMTF was in the Board Binder. Mr. Stanley said today the Board would recognize six individuals/agencies involved in initiating and implementing suppression activities for Sudden Oak Death/Phytophthora ramorum in Humboldt County. Mr. Stanley introduced:

Yana Valachovic, UC Extension, Forest Advisor, Humboldt, Del Norte County  
Chris Lee, Humboldt County SOD Program Coordinator  
Jack Marshall, CDF Pathologist, Ukiah  
Hugh Scanlon, Battalion, Humboldt-Del Norte Unit  
Unit Chief Tom Osipowich, Humboldt Del Norte Unit  
State Department of Parks and Recreation

Chairman Dixon presented plaques of appreciation to the above individuals. Chairman Dixon asked the Executive Officer to prepare resolutions for other organizations who helped with Sudden Oak Death. Ms. Valachovic gave a PowerPoint presentation on "Sudden Oak Death Research and Control in North Coastal California" (copy attached).

## **REPORT OF THE ADVISORY COMMITTEES**

### **CALIFORNIA FOREST PEST COUNCIL**

Mr. Scott Johnson, Chair of the California Forest Pest Council, gave the Board an update on the Forest Pest Council. Mr. Johnson said reports would be made twice a year, probably May and November. They will hold field

tours in summer time. The Council's 55<sup>th</sup> annual winter meeting will be held at Heidrick's Agricultural Center in Woodland.

#### **RANGE MANAGEMENT ADVISORY COMMITTEE (RMAC)**

No report was made.

#### **MONITORING STUDY GROUP (MSG)**

No report was made.

#### **PROFESSIONAL FORESTERS EXAMINING COMMITTEE (PFEC)**

Mr. Eric Huff, Executive Officer for Professional Foresters Registration said the exams from November had been sent to the grader. PFEC will meet December 13.

#### **REPORT OF THE UNITED STATES FOREST SERVICE**

See Chairman's Report.

#### **HEARING: ROAD MANAGEMENT PLAN, 2006.**

Regulations Coordinator Chris Zimny said today is the 15-day notice of public hearing for modifications to the proposed regulation "Road Management Plan, 2006". All of the public comments received are in the Board Binder. Central Valley Water Board attended a committee meeting on the Road Management Plan. At that time, they had no recommended changes. Lahontan Water Board did not comment. The Department of Fish and Game had no comment. Mr. Dennis Hall said CDF submitted a letter of support for the package.

Member Nawi asked for copies of all previous public comments.

#### **PUBLIC COMMENT**

Mr. Arne Hultgren, Roseburg Resources Company, said he submitted a comment letter, in which he was critical of the Road Management Plan. However, he supports the road management plan as long as it is voluntary. Mr. Hultgren said most forest lands are family-owned, and the cost of preparing a THP is too expensive. If the Plan is made mandatory, then the costs would have to be made known. Mr. Hultgren asked the Board to give the Road Management Plan a chance to work.

Mr. Richard Gienger submitted a one page comment letter. He supports the comments made by Sharon Duggan and Brian Gaffney. Mr. Gienger believes this should go back to committee for more work on the Road Management Plan, and it should be a stand alone item.

Mr. Bill Keye, California Licensed Foresters Association, said CLFA supported the package in the past and continues to support it. Mr. Keye read a letter from Mr. Adrian Miller.

Mr. Pete Ribar, Campbell Timberland, urged the adoption of the Road Management Plan regulations. Campbell Timberland supports the rule package because it is optional, it is flexible, it facilitates disclosure and standardized practices, it specifies a standardized framework aiding development and review, it will be a living document, subject to improvement and updating, and it can be utilized as the foundational document to potentially satisfy other requirements.

Mr. Paul Mason, Sierra Club, said Sierra Club submitted letters through Brian Gaffney and Sharon Duggan, and he also emailed Mr. Zimny with his comments. Mr. Mason said the rule package is unacceptably vague, suffers from a number of serious, fatal flaws, and should be referred back to Committee for strengthening, refinement and clarification.

**11-08-11: Member Ryneearson moved to close the public hearing. Member Nawi seconded the motion. All were in favor.**

Member Giacomini said they had much discussion on the Road Management Plan in Committee, and she feels the 15-day notice is appropriate. Member Giacomini recognized the fact that they received lengthy comments at the last minute. Member Giacomini asked Board Counsel if she had a chance to review the comments.

Ms. Teri Ashby, Board Counsel said she had not chance to review the comments. Ms. Ashby hopes to have them reviewed by the December meeting.

Member Nawi said even if the Road Management Plan were approved today, it would not go into effect until the next calendar year of 08. Member Nawi recommended waiting for counsel's response to comments. Member Nawi said the Road Management Plan should be kept on the Board agenda, and it should not be sent back to Committee.

**11-08-11: Member Nawi made a motion to defer the Road Management Plan until December or January, depending on Ms. Ashby's response to all comments that have come in to date. Member Ryneearson seconded the motion. All in were in favor.**

Member Ryneearson said he agreed with Member Nawi, that the Road Management Plan does not need to go back to Committee, but he will keep an open mind until he hears from Board Counsel, and her comments on the two letters just received from Ms. Sharon Duggan and Mr. Brian Gaffney. Member Ryneearson said even if this were passed today, it is questionable if staff could have it implemented by January of 07. Member Ryneearson urged the Board not to let the Road Management Plan sit idle.

Member Ostrowski found it interesting that the public has the most concerns with the clarity issues, while the practitioners, implementers, and foresters seemed comfortable with the way the Road Management Plan was presented.

Member Ryneearson asked Mr. Marty Berbach if the Department of Fish and Game still supported the Road Management Plan.

Mr. Berbach said yes, DFG supports the concepts of the Road Management Plan, and they have no concerns or comments at this point.

#### **UPDATE ON THE DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) FOR JACKSON DEMONSTRATION STATE FOREST (JDSF) DRAFT MANAGEMENT PLAN.**

Mr. Russ Henly provided an work plan outline for JDSF, and a two page summary of key points of Alternative A. Copies of Mr. Henly's summary were included in the Board binder. Since the last meeting, Mr. Henly has conducted stakeholder outreach. Last month, CDF met with a group of Mendocino County stakeholders who have been working to come up with some consensus-based recommendations in terms of what they would like to see. The Mendocino Group consisted of Kathy Bailey, Sierra Club; Vince Taylor, The Campaign to Restore Jackson Redwood Forest; Mike Anderson, Mike Anderson Logging Company; Art Harwood, Harwood Forest Products; Bruce Burton, Willits Redwood Company; and Mike Jani, Mendocino Redwood Company. The Mendocino Group has about 20 issues they are trying to come to consensus on. CDF has seen their language on about half of the points. The Mendocino Consensus Group will continue to meet to develop further language. CDF did additional outreach with stakeholders, including some Mendocino County Representatives, and met with two members of the Board of Supervisors. They also met with Fort Bragg Mayor Dean Turner and Fort Bragg City Councilman Jere Mello. Mr. Henly said he will have a revised plan for the Board in December. The public comment review period

should wrap up around the end of February or March, after which they should have a Final Management Plan and Final DEIR to the Board for approval and certification of the DEIR.

## **PUBLIC COMMENT**

Mr. Bill Keye, California Licensed Foresters Association, said the Board seems to be heading in the right direction. Mr. Keye urged the Board to get this done, and stick to the time table.

## **UPDATE BY THE DEPARTMENTS (CDF AND DFG) ON FISH AND GAME CODE SUBSECTION 2112 REGULATIONS**

Chief Deputy Director Crawford Tuttle said at the Board's direction, the Departments of Fish and Game and Forestry and Fire Protection have continued to work on developing possible rule language regarding Fish and Game Code Section 2112 Regulations, covering Incidental Take under Timber Harvest Plans. Chief Tuttle said they had hoped to have this item ready for the November Board meeting, but it became apparent that discussions must continue so that the outcome, and any proposed rule, be one upon which all parties may find consensus.

DFG Chief Deputy John McCamman said the original proposal which the Board saw at the August 30 workshop included prescriptions and performance-based standards intended to meet the requirements of CEQA and provide for Incidental Take Permits for state-listed coho, as well as to provide protection for other anadromous salmonids. At the August 30 workshop, the Department of Fish and Game reported their intention that the package work toward a 4(d) or Habitat Conservation Plan (HCP) alternative for coho salmon, Chinook, and steelhead listed under the ESA. DFG identified significant unresolved issues that Mr. McCamman said would require additional work on their part. Specifically, DFG feels the rule package would require additional detail for monitoring adaptive management proposals, and at this point they are not ready to move forward on the rule package. Mr. McCamman said DFG will continue to work on the rule package and bring it back to the Board at a later date. As outlined at the August 30, 2006 workshop, both departments have been actively seeking to engage stakeholders from conservation and environmental organizations, industry representatives, and other interested parties. DFG have found that there remain significant unresolved issues that they would like to continue to discuss between CDF and DFG and additional stakeholders from conservation and environmental organizations, industry representatives, and other interested parties.

Mr. Tuttle said one issue still before the Board was to get a better idea of what performance standards need to be met in order to ensure incidental take protection under the Federal Endangered Species Act.

Mr. Tuttle introduced Ms. Charlotte Ambrose, National Marine Fishery Services' Conservation Coordinator for the Pacific Southwest Region from the Santa Rosa Office. Mr. Tuttle also introduced Mr. William Stelle. Mr. Stelle runs the law firm of Preston Gates and Ellis in Seattle. Previous to that, Mr. Stelle spent six years as the Regional Director for the National Marine Fishery Service. Mr. Stelle has more than 20 years of experience and leadership in Forest and Fish Habitat Conservation, and he is a nationally recognized authority on endangered species issues.

Mr. Stelle gave a presentation on the Washington Department of Natural Resources Forest and Fish Habitat Conservation Plan Process. Mr. Stelle distributed copies of "A Chronology for a Forest and Fish Habitat Conservation Plan" to Board Members. The chronology included a timeline for development of a HCP, a sketch of what is in the HCP itself, and major process-related recommendations. Mr. Stelle reviewed the process for the Forest and Fish Habitat Conservation Plan with the Board (copy attached).

Member Ostrowski asked who takes the lead in developing the science and level of take.

Mr. Stelle said they did not define the level of take. Defining take was at the end of the process. Mr. Stelle said the outcome of a HCP is the issuance of a Section 10 Permit which authorizes Incidental Take that is associated with the activity. The outcome is you get whatever take may be associated with the activity it addressed, but the activity itself is not necessarily designed just to achieve the authorization of take. Mr. Stelle said the state and federal negotiators' principle objective was not the issuance of Incidental Take Permit, it was the adoption of the

program that could provide reasonable assurances that the productivity of that landscape would repair itself and be there in the future. Both the federal and state government put together a science group that they routinely consulted with. Mr. Stelle said the industry paid for part, as did the state and federal government.

Member Giacomini asked Mr. Stelle what lands were included.

Mr. Stelle said state-funded land, not tribal lands or private lands, are covered by existing HCPs.

Ms. Giacomini asked if a landowner is looking at the program, are they automatically in if they cannot absorb the costs in order to apply the management requirement.

Mr. Stelle said a landowner may opt-out of the specific prescriptions if they can develop an alternative timber harvest plan that can get an approval from the state, but Mr. Stelle said he has not seen that happen yet.

Member Bosetti asked Mr. Stelle when the science evaluation began.

Mr. Stelle said the science evaluation began after the very first scoping exercise.

Member Bosetti said that prior to the inception of the process, there were standards that were in place for landowners adhere to for riparian protection, and how would the process evaluate the current standard and then move it to a new one.

Mr. Stelle said it was not very hard because there had been a decade of significant turmoil in the Pacific Northwest and Northern California over forestry practices generally and ecological objectives. There had been efforts by the federal government to develop better science governing riparian management and aquatic strategies for government lands, which led to the FEMAT Report in the late-80's or early-90's, which then led to development of the Northwest Forest Plan, which had a significant amount of scientific undertakings to it. The heart of the Forest Plan is to protect the landscape.

Member Rynearson said it looked like it took four years of intense negotiations to the delivery of a 4d Rule. The 4d Rule was then challenged. Member Rynearson asked Mr. Stelle if he would recommend a HCP instead of a 4d Rule.

Mr. Stelle said yes, he would recommend the HCP.

A PowerPoint presentation was made by National Marine Fisheries Service's Charlotte Ambrose and Penny Ruvelas on the process to Authorize Incidental Take of Listed Salmonids through Section 10(a)(1)(B) for California's Forest Practice Rules. Ms. Ambrose and Ms. Ruvelas described for the Board the steps that applicants and NMFS must follow for Incidental Take of Federally-Listed Species authorized in an HCP. Ms. Ambrose said as long as the state expresses interest, NMFS will continue their review of the administrative record, and continue meeting with state resources, and NMFS will continue outlining the process. Ms. Ambrose requested time on the January Board of Forestry agenda to provide information on where to go.

## **PUBLIC COMMENT**

Mr. Paul Mason, Sierra Club, expressed his disappointment that the process came to a screeching halt.

Mr. Chris Carr, an attorney on behalf of the California Forestry Association, said CFA agrees with the comments made by Mr. Stelle and Ms. Ambrose. CFA is supportive of the collaborative effort to move forward to explore whether the HCP section standard approach for salmonids in California will work, and CFA would be happy to participate in the effort; however the development of a HCP is a difficult multi-year process and would take many years. Mr. Carr said during the interim period CFA and its members believe it is important that there be some mechanism in place under CESA for personal timberland owners who have lands in watersheds where salmonids are present, and where timberland owners want to see Incidental Take Coverage under the California Act that they be able to do that. CFA's analysis is that such a mechanism already exists, and it is provided by the comprehensive THP review and approval process.

Mr. Richard Gienger doesn't like the fact that the HCP has free off-ramps and people can just drop out. Mr. Gienger asked if commercial and sport fishing had been represented.

Chairman Dixon asked the Board if they wanted to support the HCP process.

Mr. Crawford Tuttle, Chief Deputy Director said it was very helpful today to learn from Mr. Stelle and from the NMFS presentation about the process. Mr. Tuttle said he was appreciative of the time and energy NMFS has put into working with CDF, and looks forward to continuing that effort. Mr. Tuttle said CDF needs to sit down and get a common understanding about what the scope of the dialogue would be, and at that point, it is contemplated that the Board might be the most suitable applicant to pursue a HCP.

Mr. John McCamman, Chief Deputy Director for the Department of Fish and Game, said DFG continues to seek convergence of views among the stakeholders. Mr. McCamman said DFG is not abandoning any of the processes along the way. DFG now have a third goal identified as to what direction they are heading. DFG still continues to work with the regulatory package that they presented on August 30, and alternatively Fish and Game's obligation for rule-making under 2112 independent of the Board of Forestry.

Member Nawi said the presentations given today on incidental take were extremely helpful in laying out what the process would look like, and the issues that would have to be addressed in terms of substance and process. Member Nawi said he looks forward to seeing what comes next when the Resources Agency and other departments get involved. Member Nawi said he had a major problem with the joint letter between CDF and DFG. Member Nawi said the problem was that the regulations were to be adopted by the Board of Forestry, and they were brought to the Board by Resources Secretary Chrisman in July saying go forward and do 2112 Regulations because the Board of Forestry could do it in terms of the Board's functional equivalency stats under CEQA. Member Nawi said it has since taken a number of turns and twists, but Member Nawi sees people looking to the Board of Forestry to adopt, or not adopt 2112 regulations, and the Board is waiting for two departments, Fish and Game and CDF to conduct a consensus process in which the Board has no role. Member Nawi said people are asking the Board "what have you done?" "what are your intentions?", and all we can say is it is up to the Department, they have not come to a consensus. Member Nawi felt it would be very helpful if the Board Members could get the latest draft from the Departments for consideration at next month's meeting. Member Nawi said the Board is in the middle of the T/I Regulations and the issues are related. Member Nawi is concerned because the Board was not involved in developing something that they would be acting on.

Member Ostrowski agreed with some of the things Member Nawi said. After listening to today's presentation, Member Ostrowski felt there needed to be a working relationship and trust, and the Board should continue to develop this relationship. He was not sure the Board needed to see the latest draft if science was not involved. Member Ostrowski felt the Board should move forward with science and continue that development. Member Ostrowski said he was not ready to make a decision before he had more information. He recommended continued agendizing of the 2112 regulations.

Member Bosetti said the Board was asked by the Resources Agency to try to carry the weight of 2112 through the Board of Forestry process vs. the Department of Fish and Game process. It may be that the Board decides not to take up the 2112 process. Member Bosetti would like to pursue the potential.

Member Rynearson said there are two different issues to deal with. The Fish and Game Commission directed the Department of Fish and Game to develop Incidental Take Permit for Coho. Part of Secretary's Chrisman's discussion in July was for the Board of Forestry to consider the entire range of the T/I, which is different from the Fish and Game Commission asked the Department to do. Member Rynearson feels there is an opportunity bifurcate the process, and whether it turns into an interim process to deal with the issuance of an Incidental Take Permit. Member Rynearson asked if Fish and Game and Agency would explore the request made by Mr. Carr to see if this is a viable option and opportunity for the Board to at least get the process in place to deal with coho. In the interim, the Board has the process moving forward as far as the review of the science for the T/I, which seems to flow into the consideration of what the standards and science should be behind the Habitat Conservation Plan that would include all listed species and all potentially-listed species. This would lead to bifurcating the process, one for the coho for an interim process to have the Board's Timber Harvesting Plan process protected under

Incidental Take Permit issuance for coho under the state. The longer term, would take 2, 3, 4, or 5 years to look at the development of a Habitat Conservation Plan that would address all state-listed and federally-listed salmonid issues.

Member Nawi said the Board needs to decide what they want to do and take affirmative action.

Chairman Dixon said he could sense the frustration that has developed around the 2112 issue. Chairman Dixon asked Mr. Crawford and Mr. McCamman if they would have something for the Board at their December meeting on the package seeking stakeholder input.

Mr. McCamman said not at the December meeting, but in the near future.

Chairman Dixon said he agreed with Members Nawi and Bosetti. The Board was asked to undertake a process, now they wait. By the Board not being involved in the process, it puts them on the outside looking in. In order to keep the process moving, Chairman Dixon asked that it be on the agenda every month to add motivation.

Member Ostrowski would like to have more discussion on the Habitat Conservation Plan at the December Board Meeting.

Chairman Dixon asked Board Members to put their thoughts in writing to the Executive Officer of what they want to discuss at the December meeting and recommend some indication of action they feel the Board should take. Chairman Dixon said perhaps it should go back to Committee. Chairman Dixon asked the Board if any member wanted to make a motion. No motion was offered. This will be agendaized for the December Board meeting.

#### **DISCUSSION OF RESPONSE TO MENDOCINO REDWOOD COMPANY LETTER ON THE PROGRAM TIMBERLAND ENVIRONMENTAL IMPACT REPORT**

Mr. Gary Rynearson, Chair of the Management Committee, said the Committee had a discussion on PTEIR, and the letter drafted to Mendocino Lumber Company. The letter is currently being reviewed by Board Counsel. Member Rynearson asked that this be agendaized for the December meeting.

#### **HEARING: *THE CHANGING CALIFORNIA***

Executive Officer George Gentry said today was the third in a series of hearings for the Board's Draft Policy Statement "The Changing California". The current version of the October 15 draft is posted on the Board's website.

#### **PUBLIC COMMENT**

Mr. Kevin O'Meara, representing CDF Firefighters, said although the Policy Statement does touch briefly on the Fire Protection-side of the organization, there is room to flesh out more. Mr. O'Meara offered CDF Firefighter's help in fleshing-out the Fire Protection piece, and he said CDF's Mission Statement, staffing, facilities, equipment should all be a part of the plan

Executive Officer Gentry said he would welcome CDF Firefighter's comments, and to please email them to him. Mr. Gentry pointed out that as part of the Policy Statement, the main thing is to identify potential actions. The Policy Statement remains open-ended.

Mr. Richard Gienger thought under "watershed conditions" it would be appropriate to specifically name listed salmonids as part of the key issue.

Mr. Bill Stewart, CDF Assistant Deputy Director said the Policy Statement has come a long way. It will be an ongoing work plan. Sometimes policy statements are not connected to a work plan. Mr. Stewart had a couple of



changes in the indices; he will give them to Mr. Zimny. Mr. Stewart said they are looking at improving the range chapter and assessment. The wording needs to be tightened in the Biodiversity Section.

Executive Officer Gentry said he needs to add the section "Indices Development", which will be an ongoing process. After Executive Officer Gentry receives comments from Mr. O'Meara and Mr. Stewart, he will finalize the document and post it on the Board's website. At the December meeting, the Board will give the Executive Officer their changes, additions, or deletions as they see necessary and take action on whether or not to adopt the document formally.

## **STANDING COMMITTEES OF THE BOARD**

### **FOREST PRACTICE COMMITTEE (FPC)**

Member Ostrowski chaired the Forest Practice Committee in the absence of Chairman Nawi. Members Bosetti and Marckwald were also present. Most of the Committee was spent reviewing the progress of the Technical Advisory Committee. The TAC is reviewing the science on Threatened or Impaired Rule Package. Mr. Gary Nakamura from UC Extension made a presentation to the Chair. The TAC has met twice since their formation in October, and is making good progress.

The Committee also discussed the charter they prepared for the TAC, as well as the TAC work plan. The TAC would like feedback from the Board on two issues regarding the charter. The first was to clarify with the charter the title "Threatened or Impaired Rule Package". The charter was strictly focused on the review of threatened or impaired watershed package, but the Committee narrowed the scope in the process of both within the charter and within the draft work plan. The TAC suggested that the Committee change or add to the title the language "of studies pertinent to riparian buffers and functions". The title of the charter would be "Charter of the Technical Advisory Committee for Support of Threatened or Impaired Watersheds Scientific Literature Review of Studies Pertinent to Riparian Buffers and Functions". The second issue the TAC would like the Board to act on was to direct staff to send out request to the public and other experts to gather literature, and to select the experts and request their contribution of any literature. The TAC will meet three times in the next couple of months. The meetings will be noticed to the public. The contract for the literature review may be broken up into smaller segments specific to a riparian function, and then contract to an expert within that function to do a literature or science review.

The Committee also had a discussion of the Findings from the Modified Completion Report Study. At the Santa Cruz meeting the Committee had asked the Department to come back and report to them on response to the recommendations and findings from the report. Member Ostrowski said the Committee felt it would be appropriate for the Board to adopt the findings and move forward to communicate the plan to stakeholders and issuing a press release to the public.

**11-08-FPC1: Member Ostrowski moved to adopt the findings and direct CDF to prepare a communications plan for stakeholders and a press release to the public. Member Bosetti seconded the motion. All were in favor.**

Member Ostrowski said the Fuel Hazard Exemption will expire next year. Member Ostrowski asked to have renewing the LaMalfa Exemption agendaized for the Committee next month. It will sunset December 31, 2007.

Member Bosetti said the TAC will use Member Nawi and Member Ostrowski as liaison to the Board for clarification.

### **POLICY COMMITTEE**

Member Ostrowski said the Policy Committee met, but he was the only Committee Member present. Member Ostrowski elected himself Acting Chair of the Policy Committee. The Committee discussed the revised Monitoring Study Group Strategic Plan.

## **MANAGEMENT COMMITTEE**

Chairman Ryneanson reported the Management Committee met yesterday, with him and Member Giacomini in attendance. The PTEIR Guidance Document was discussed, which also included a brief discussion on the status of the comments back from Deputy Attorney General Ashby regarding potential modifications. Chairman Ryneanson said the memo is being revisited and he hopes to have the modified memo back to Committee in December.

The main discussion focused on the preparation, review and implementation of PTEIR/PTHPs. The Committee identified ten to twelve focus areas under which will be enveloping language and guidance based on the current regulations, and based on the current procedures and practices. This would be useful for agencies and the public to understand the PTEIR/PTHP process, as well as what happens when rules change; when a PTEIR would have to be modified; when can or can't you use a PTHP when there has been significant changes on the ground were not identified in the PTEIR. Assistant Executive Officer Eric Huff and Alan Robertson will prepare a draft document and have it at the December meeting.

The Committee also briefly reviewed the information received to date on the Road Management Plan.

No action items came out of the Committee.

## **RESOURCE PROTECTION COMMITTEE (RPC)**

Chairman Bosetti said the Resource Protection Committee met yesterday, he and Member Giacomini were present. They discussed the General Plan Safety Element Reviews for the Cities of Sonora and Claremont. It was the Committee's opinion that the recommendations were sufficient and they ask the Board to approve the recommendations and direct staff to send a letter consisting of the recommendations.

**11-08-RPC2: Member Bosetti moved that the Board approve the recommendations for the General Plan Safety Review for the Cities of Sonora and Claremont, and to direct staff to send a letter which consists of the recommendations. Member Giacomini seconded the motion. All were in favor.**

The Committee had an update on the California Fire Plan. The Committee decided at the December meeting they would peel off the portion of the assessment that was conducted by the working group on level-of-service. Chairman Bosetti and Member Giacomini will come up with a list of questions for the Department based on that portion of the assessment. Chief Wayne Mitchell is the lead for CDF.

The Committee had a discussion of the VTP Program Review. They are going through the spreadsheet to use as a basis for compiling information to commence the review time, and are trying to set up a conference call with the working group between now and next month's meeting. Mr. Jeff Stephens reported on the status of the VTP EIR. Mr. Stephens indicated the draft EIR would be completed by April 15, 2007. Member Giacomini said the timeline for JDSF would be about the same for the VTP EIR.

The Committee discussed Rangeland Water Quality Program and recommendations from RMAC. Chairman Bosetti said he hoped to have an RMAC representative at the next meeting.

## **REPORT OF THE REGULATIONS COORDINATOR**

Mr. Chris Zimny, Regulations Coordinator, reported that the only regulatory action before the Board was the Utility Stem Exemption, which would be noticed on November 17, 2006 for a hearing in January.

## **REPORT OF THE EXECUTIVE OFFICER**

Mr. George Gentry, Executive Officer for the Board reported that he had done some research on ex parte communications by Board Members, and asked Board Counsel to investigate the issue of ex parte.

Ms. Teri Ashby said the question was "Can Board Members have ex parte communications about proposed regulations once they are noticed for hearing?" Ms. Ashby said the short answer is "no". An ex parte communication is any communications, direct or indirect, to a Board Member about a pending or impending Board matter that occurs in the absence of all parties to the matter without notice and opportunity to participate in the communication. The "indirect" means somebody cannot call your secretary or spouse and have a communication. Ex parte communications are prohibited when you are deciding the rights, responsibilities and duties of a person, for instance licensing, when you are acting as a judge. Ex parte communications are not prohibited in rule-making, and it is ok to have them; however there are two caveats to that. Information obtained outside of a Board meeting cannot be used as a basis for any of the Board's actions; if you are having those communications, and making decisions based on that, it is not on the record and will not hold up. The best thing to do is to put those communications on the record, so there is a good record that will hold up in court. The other caveat is that ex parte communications can lead to serial meetings, which are prohibited by the Bagley-Keene Open Meeting Act. Ms. Ashby said when someone talks to you, you don't know if they are talking to four or five other members, but if they are it could be considered a serial meeting. Executive Officer Gentry asked staff to work with Ms. Ashby to craft a policy to provide the Board with clear guidelines on ex parte communications.

Executive Officer Gentry reported that he, Deputy Director Tuttle, and Secretary Chrisman were in Pasadena on Monday for the swearing in of Ms. Sandra Ikuta as a federal judge on the 9<sup>th</sup> circuit. Ms. Ikuta was counsel to the Resources Secretary.

Executive Officer asked Board members if the dates of December 5 and 6 still worked for the Board meeting. No one objected.

## **PUBLIC FORUM**

Mr. Richard Gienger was alarmed how quickly Sudden Oak Death is moving. Mr. Gienger encouraged the TAC to bring together and summarize what monitoring is needed now. Mr. Gienger said the Board needs a monitoring process that is valuable and transparent, that is good for landowners, good for agencies, and good for the public. Regarding the Road Management Plan, Mr. Gienger suggested putting all the definitions in a definition section for clarity.

Mr. Russ Henly, Assistant Deputy Director for Resource Management, reported he went to a memorial service at UC Berkeley for Dr. Paul Zinke.

## **NEW AND UNFINISHED BUSINESS**

There was no new or unfinished business.

## **ADJOURNMENT**

The Chairman adjourned the November 8, 2006 meeting of the Board.

Respectfully submitted,

ATTEST:

George D. Gentry  
Executive Officer

Stan Dixon  
Chairman

Copies of the attendance sheets can be obtained from the Board Office.